



General Assembly

Substitute Bill No. 5107

February Session, 2012

* HB05107INS 031412 *

AN ACT CONCERNING CAPTIVE INSURANCE COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-91nn of the 2012 supplement to the general
2 statutes, as amended by section 66 of public act 11-1 of the October
3 special session, is repealed and the following is substituted in lieu
4 thereof (*Effective July 1, 2012, and applicable to calendar years commencing*
5 *on or after January 1, 2012*):

6 (a) Each captive insurance company shall pay to the Commissioner
7 of Revenue Services, on or before March first of each year, a tax at the
8 rate of (1) thirty-eight hundredths of one per cent on the first twenty
9 million dollars, (2) two hundred eighty-five thousandths of one per
10 cent on the next twenty million dollars, (3) nineteen hundredths of one
11 per cent on the next twenty million dollars, and (4) seventy-two
12 thousandths of one per cent on each dollar thereafter, on the direct
13 premiums collected or contracted for on policies or contracts of
14 insurance written by the captive insurance company during the year
15 ending December thirty-first next preceding, after deducting from the
16 direct premiums subject to the tax the amounts paid to policyholders
17 as return premiums which shall include dividends on unabsorbed
18 premiums or premium deposits returned or credited to policyholders,
19 except that no tax shall be due or payable as to considerations received
20 for annuity contracts.

21 (b) Each captive insurance company shall pay to the Commissioner
22 of Revenue Services, in the month of March of each year, a tax at the
23 rate of (1) two hundred fourteen thousandths of one per cent on the
24 first twenty million dollars, (2) one hundred forty-three thousandths of
25 one per cent on the next twenty million dollars, (3) forty-eight
26 thousandths of one per cent on the next twenty million dollars, and (4)
27 twenty-four thousandths of one per cent on each dollar thereafter, on
28 assumed reinsurance premiums collected or contracted for on policies
29 or contracts of insurance written by the captive insurance company
30 during the year ending December thirty-first next preceding, provided
31 no tax under this subsection shall apply to premiums for risks or
32 portions of risks that are subject to taxation on a direct basis pursuant
33 to subsection (a) of this section. No tax under this subsection shall be
34 payable in connection with the receipt of assets in exchange for the
35 assumption by a captive insurance company of loss reserves and other
36 liabilities of another insurer under common ownership and control, if
37 such transaction is part of a plan to discontinue the operations of such
38 other insurer and if the intent of the parties to such transaction is to
39 renew or maintain such business with the captive insurance company.

40 (c) (1) The annual minimum aggregate tax to be paid by a captive
41 insurance company, other than a sponsored captive insurance
42 company, calculated under subsection (a) of this section shall be seven
43 thousand five hundred dollars, and the annual maximum aggregate
44 tax calculated under subsections (a) and (b) of this section shall be two
45 hundred thousand dollars. In the case of a branch captive insurance
46 company, the annual aggregate tax to be paid by such company shall
47 apply only to the branch business of such company.

48 (2) In the case of a sponsored captive insurance company, the
49 annual minimum aggregate tax to be paid by a sponsored captive
50 insurance company shall be seven thousand five hundred dollars and
51 shall apply to such company as a whole and not to each protected cell.
52 The annual maximum tax to be paid by a sponsored captive insurance
53 company shall be the aggregate tax liability, calculated under
54 subsection (a) of this section, of each protected cell.

55 (d) The provisions of sections 12-204, 12-204d, 12-204g and 12-205 to
56 12-208, inclusive, shall apply to the provisions of sections 38a-91aa to
57 38a-91tt, inclusive, in the same manner and with the same force and
58 effect as if the language of said sections 12-204, 12-204d, 12-204g and
59 12-205 to 12-208, inclusive, had been incorporated in full into this
60 section and had expressly referred to the tax due under this section,
61 except to the extent that any such language is inconsistent with a
62 provision of said sections 38a-91aa to 38a-91tt, inclusive.

63 (e) (1) Except as specified in subsection (c) of this section and
64 subdivision (2) of this subsection, two or more captive insurance
65 companies under common ownership and control shall be taxed as
66 though they were a single captive insurance company.

67 (2) Special purpose financial captive insurance companies shall not
68 be consolidated with other captive insurance companies that are not
69 special purpose financial captive insurance companies for purposes of
70 calculating the tax due under this section.

71 (f) For the purposes of this section, (1) "common ownership and
72 control" means ownership and control of two or more captive
73 insurance companies by the same person or group of persons, and (2)
74 "ownership and control" means:

75 (A) In the case of stock insurers, the direct or indirect ownership of
76 eighty per cent or more of the outstanding voting stock of the insurer;

77 (B) In the case of mutual or nonprofit corporations, the direct or
78 indirect ownership of eighty per cent or more of the surplus and the
79 voting power of the corporation;

80 (C) In the case of limited liability companies, the direct or indirect
81 ownership of eighty per cent or more of the membership interests in
82 the company; and

83 (D) In the case of sponsored captive insurance companies, a
84 protected cell shall be treated as a separate captive insurance company

85 owned and controlled by the protected cell's participants.

86 (g) (1) The tax provided for in this section shall constitute all taxes
87 collectible under the laws of this state from any captive insurance
88 company, and no other occupation tax or other taxes shall be levied or
89 collected from any captive insurance company by the state or any
90 county, city or municipality within this state, except sales and use
91 taxes and ad valorem taxes on real and personal property used in the
92 production of income.

93 (2) The tax provided for in this section shall be calculated on an
94 annual basis, notwithstanding policies or contracts of insurance or
95 contracts of reinsurance issued on a multiyear basis. In the case of
96 multiyear policies or contracts, the premium shall be prorated for
97 purposes of determining the tax under this section.

98 (3) A captive insurance company may claim a nonrefundable tax
99 credit of seven thousand five hundred dollars against the aggregate tax
100 imposed under this section for the first calendar year on or after
101 January 1, 2012, in which the company has liability under this section.
102 The Commissioner of Revenue Services shall prescribe the form and
103 manner in which such tax credit may be claimed.

104 [(h) (1) There is established an account to be known as the "captive
105 insurance regulatory and supervision account" which shall be a
106 separate, nonlapsing account within the Insurance Fund established
107 under section 38a-52a. The account shall contain any moneys required
108 by law to be deposited in the account. Moneys in the account shall be
109 expended by the commissioner for the purposes of funding staff
110 positions and other reasonable expenses related to the regulation of
111 captive insurance companies.]

112 [(2) (A)] (h) (1) All fees and assessments relating to captive
113 insurance companies received by the Insurance Department shall be
114 deposited in the [account] Insurance Fund established pursuant to
115 section 38a-52a. [(B)] The Comptroller shall transfer annually to [the
116 account] said fund eleven per cent of the tax collected pursuant to this

117 section.

118 [(3)] (2) The Comptroller may transfer from the [account] Insurance
119 Department's available appropriation, with the approval of the
120 Secretary of the Office of Policy and Management, an amount
121 equivalent to not more than two per cent of the tax collected pursuant
122 to this section, to the Department of Economic and Community
123 Development for reasonable expenses incurred to promote the captive
124 insurance industry in this state. The Department of Economic and
125 Community Development may also utilize the transferred moneys to
126 collaborate with other entities to promote the captive insurance
127 industry in this state.

128 [(4)] (3) No payment for the maintenance of staff or associated
129 expenses, including contractual services as necessary, shall be
130 disbursed until the commissioner receives proper documentation
131 regarding services rendered and expenses incurred. The commissioner
132 shall establish the form and manner of such documentation.

133 [(5)] Any balance remaining in the account at the end of any fiscal
134 year shall be carried forward in the account for the fiscal year next
135 succeeding.]

136 Sec. 2. Section 38a-91oo of the 2012 supplement to the general
137 statutes, as amended by section 67 of public act 11-1 of the October
138 special session, is repealed and the following is substituted in lieu
139 thereof (*Effective July 1, 2012*):

140 Unless otherwise provided in sections 38a-91aa to 38a-91tt,
141 inclusive, no provision of this title shall apply to captive insurance
142 companies, unless expressly included therein, except for the following:
143 (1) Sections 38a-8, 38a-16, 38a-17, 38a-54 to 38a-57, inclusive, 38a-59,
144 38a-69a, [38a-73,] 38a-129 to 38a-140, inclusive, and 38a-250 to 38a-266,
145 inclusive, and chapter 704c; and (2) section 38a-73, which shall apply
146 only to captive insurance companies formed as risk retention groups,
147 as defined in section 38a-91aa.

Section 1	<i>July 1, 2012, and applicable to calendar years commencing on or after January 1, 2012</i>	38a-91nn
Sec. 2	<i>July 1, 2012</i>	38a-91oo

INS *Joint Favorable Subst.*